

production have already been made timely and otherwise in accordance with instructions provided by MMS to the payor. However, late payment charges assessed with respect to any Indian lease, permit, or contract shall be collected and paid to the Indian or tribe to which the amount overdue is owed.

(b) Late payment charges will be assessed on any late payment or underpayment from the date that the payment was due until the date that the payment was received at the MMS addresses specified in § 218.51. Payments received at the specified MMS addresses after 4 p.m. mountain time are considered received the following business day.

(c) Late payment charges apply to all underpayments and payments received after the date due. The charges include production and minimum royalties; assessments for liquidated damages; administrative fees and payments by purchasers of royalty taken-in-kind; or any other payments, fees, or assessments that a lessee/operator/permittee/payor/royalty taken-in-kind purchaser is required to pay by a specified date. The failure to pay past due amounts, including late-payment charges, will result in the initiation of other enforcement proceedings.

(d) An overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine a net underpayment on which interest is due pursuant to conditions specified in § 218.42.

[47 FR 47773, Oct. 27, 1982. Redesignated at 48 FR 35641, Aug. 5, 1983, and amended at 49 FR 37347, Sept. 21, 1984; 57 FR 41868, Sept. 14, 1992; 57 FR 62206, Dec. 30, 1992; 67 FR 19112, Apr. 18, 2002]

§ 218.103 Payments to States.

(a) Any amount that is payable by MMS to a State but is not paid on the due date, as specified in § 219.100 of this chapter, or that is held in a suspense account pending resolution of a dispute as specified in § 219.101 of this chapter, shall accrue interest payable to the State.

(b) Interest shall be computed at the underpayment rate established by the Internal Revenue Code, 26 U.S.C. 6621(a)(2) (Supp. 1987).

(c) Interest shall be computed only for the number of days the disbursement is late. In the case of suspended amounts subject to interest, it shall be computed beginning with the calendar day following the day that the monies normally would have been paid to the State had they not been in suspense.

[49 FR 37347, Sept. 21, 1984, as amended at 55 FR 37230, Sept. 10, 1990]

§ 218.104 Exemption of States from certain interest and penalties.

(a) States are exempt from being assessed for any interest or penalties found to be due against the Department of the Interior for failure to comply with the Emergency Petroleum Allocation Act of 1973, as amended, or any regulation issued by the Secretary of Energy thereunder concerning the certification or processing of crude oil taken in-kind as royalty by the Secretary.

(b) Any State shall be assessed for its share of any overcharge resulting from a determination that DOI failed to comply with the Emergency Petroleum Allocation Act of 1973, as amended. Each State's share shall be assessed against monies owed to the State. Such assessment shall be first against monies owed to such State as a result of royalty audits prior to January 12, 1983, the enactment date of the Federal Oil and Gas Royalty Management Act of 1982, then against other monies owed. The State shall be liable for any balance.

(c) A State's liability for repayment of an overcharge under this section shall exist for any amounts resulting from a judgment in a civil suit or as the result of settlement of a claim through a negotiated agreement. State liability would be offset against future mineral revenue distributions to the State.

[49 FR 37347, Sept. 21, 1984]

§ 218.105 Definitions.

Terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

[49 FR 37347, Sept. 21, 1984]